

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

AMGUARD INSURANCE COMPANY)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:20-cv-01853-MTS
)	
T & J ENTERPRISES, INC., <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This case is before the Court on Plaintiff’s Motion for Default Judgment, Doc. [50], in which Plaintiff moves the Court to enter a default judgment against Defendants Michelle Hill and Earl Hill after the Clerk of Court made an Entry of Default against them, Doc. [49]. In deciding whether to enter a default judgment, a district court assumes the well-pleaded allegations of the complaint are true, except as to the amount of damages. But the Court must still decide “whether the unchallenged facts constitute a legitimate cause of action, since a party in default does not admit mere conclusions of law.” *Marshall v. Baggett*, 616 F.3d 849, 852 (8th Cir. 2010); *accord Murray v. Lene*, 595 F.3d 868, 871 (8th Cir. 2010). Here, Plaintiff did not file a memorandum in support of the Motion for Default Judgment as Local Rule 4.01(A) requires, meaning the Court is without briefing to determine whether the unchallenged facts in Plaintiff’s Complaint constitute a legitimate cause of action against Michelle Hill and Earl Hill. For this reason, the Court will deny Plaintiff’s Motion without prejudice.

The Court notes further, however, that while an entry of default judgment in this case eventually could be appropriate, it likely would not be favored until the case is resolved as to the non-defaulting Defendants. *See, e.g., Budco Fin. Servs., LLC v. VSC Now, LLC*, No. 4:20-cv-

01873-SRC, 2021 WL 5412292, at *1 (E.D. Mo. June 30, 2021); *Atl. Cas. Ins. Co., Inc. v. Young*, No. 4:15-cv-00069-AGF, 2015 WL 12850548, at *1 (E.D. Mo. Mar. 11, 2015); *United Fire & Cas. Ins. Co. v. Thompson*, No. 1:09-cv-00051-LMB, 2010 WL 561578, at *2 (E.D. Mo. Feb. 10, 2010); *see also Alfa Vision Ins. Corp. v. Amaya-Mata*, No. 2:17-cv-02066-PKH, 2017 WL 11178860, at *2 (W.D. Ark. July 13, 2017).

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Default Judgment, Doc. [50], is **DENIED without prejudice**.

Dated this 24th day of February, 2022.

A handwritten signature in black ink, appearing to read 'MTS', is written over a horizontal line.

MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE